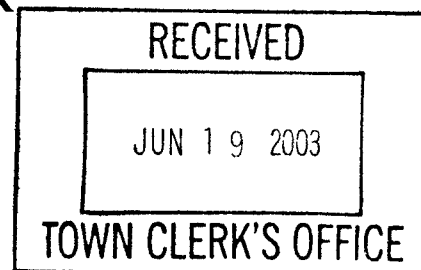




TOWN OF NEW WINDSOR

ZONING BOARD OF APPEALS
Regular Session - JUNE 23, 2003

AGENDA
7:30 p.m. – Roll Call



PRELIMINARY MEETINGS:

1. **M & Y BUILDERS, INC. (#03-29)** Request for 864 square feet variance for Maximum Livable Area at 22 East Green Road in an **R-1 Zone (55-1-77.1)**
2. **TOM PRENDERGAST (#03-30)** Request for 12 ft. Rear Yard Setback for proposed attached deck at 110 Merline Avenue in an **R-4 zone (18-1-19)**
3. **BOB & ROSEMARY HERSH (#03-31)** Request for 3 feet Rear Yard Setback for proposed roof over existing deck at 444 Philo Street in an **R-4 Zone (73-4-1)**
4. **JOSEPH COMO (#03-32)** Request for 8 ft. Rear Yard Setback for proposed addition; and 4 ft Side Yard Setback and 5 ft. Rear Yard Setback for existing shed at 433 Philo Street in an **R-4 Zone (73-3-11)**

PUBLIC HEARINGS:

5. **JEAN LEWIS (03-24)** Request for 7 ft. Required Front Yard Setback and 14 ft. Required Side Yard Setback for proposed deck on 15 Shaw Road in an **R-1 zone (53-3-2)**
6. **WILLIAM & LINDA FARRELL (03-20)** Request for:
2 ft. Side Yard – Proposed pool deck
5 ft. Front Yard for above-ground pool located in required front yard – Corner Lot
Existing 6' fence projects between the house and road – Corner Lot

All located on a corner lot at 301 Butternut Drive in a **CL zone (78-6-13)**
7. **PLYMPTON HOUSE (PETER KRONNER) (#02-59)** Request for Use Variance for proposed catering use at 10 Plympton Street in a **PI Zone (14-2-3.1) PB #02-23**
8. **JESUS & JOSEFA HERNANDEZ (#03-23)** Request for 5.4 ft. Required Side Yard Setback for existing deck at 35 Cross Street in an **R-4 zone (40-3-7)**
9. **EUGENE & JACQUELINE SCARANO (03-25)** Request for 7 ft Maximum Building Height and 16% Developmental Coverage for proposed detached garage at 516 Union Avenue in an **R-4 zone (7-4-4)**
10. **ROBERT MC KNIGHT (#03-27)** Request for 7 ft. Required Rear Yard Setback for proposed rear deck at 51 Birchwood Drive in an **R-4 zone (40-1-1)**

June 23, 2003

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

JUNE 23, 2003

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN (ARRIVING
LATE)

MICHAEL KANE
LEN MCDONALD
MICHAEL REIS
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY.

MR. KANE: I'd like to call to order the June 23, 2003
meeting of the Town of New Windsor Zoning Board of
Appeals. Mr. Chairman seems to be running late so
I'll go ahead and start tonight's hearings.

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PRELIMINARY MEETINGS:

M & Y BUILDERS

MR. KANE: Anybody from M & Y? We'll hold this item until the end of the agenda and see if somebody shows.

TOM PRENDERGAST (#03-30)

MR. KANE: Request for 12 ft. rear yard setback for proposed attached deck at 110 Merline Avenue in an R-4 zone.

Mr. Eric Mason appeared before the board for this proposal.

MR. MASON: Mr. Chairman, I submitted pictures and maps, he's looking for a 12 foot rear yard setback to extend his existing deck. We're not really going to be changing any characteristics or anything as far as the neighborhood.

MR. KANE: Excuse me, as I resign, Mr. Torley has arrived.

(Whereupon, Mr. Torley entered the room.)

MR. TORLEY: My apologies for being late. Go ahead.

MR. MASON: We're looking for a 12 foot rear yard setback, we're not going to be changing any characteristics or anything in the neighborhood. We looked at other places to extend this deck on the property and nothing else really fit. That's really it in a nutshell. The property line is on quite a steep angle and that's where we ran into a problem.

MR. BABCOCK: If I can add one thing, the purpose of this variance is because the deck is attached to the house.

MR. KANE: So it becomes the house setback?

MR. BABCOCK: That's correct.

MR. TORLEY: You're attaching to the house for reasons of safety?

MR. MASON: Safety and to give him a little bit more room. The deck as it's existing is more open and access, yes, it's pretty tight right now the way it

sits.

MR. KANE: With the existing deck and the now proposed deck adding that will keep that in line with other decks in the area? It's not oversized?

MR. MASON: I would say so for that neighborhood.

MR. KANE: Creating any water hazards or runoffs with the building of the deck?

MR. MASON: No.

MR. KANE: Cutting down any trees?

MR. MASON: No.

MR. KANE: Any septic easements that you know of?

MR. MASON: No, it's all Town supplied water and sewer I believe.

MR. BABCOCK: Yes.

MR. TORLEY: Gentlemen, do you have any other questions at this time?

MR. KANE: Accept a motion?

MR. TORLEY: Yes, sir.

MR. KANE: I move we set up Mr. Tom Prendergast for a public hearing on his requested variance at 110 Merline Avenue.

MR. MC DONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

BOB & ROSEMARY HERSH (#02-31)

MR. TORLEY: Request for 3 feet rear yard setback for proposed roof over existing deck at 444 Philo Street in an R-4 zone.

Mr. Bob Hersh appeared before the board for this proposal.

MR. TORLEY: What seems to be the problem?

MR. HERSH: I want to screen in my deck, I have an existing deck, I want to screen it in and put a roof over it and seems like I have to go 40 feet back from the structure to the next property line and I have about 37 and change so I'm a couple of feet short so I need this variance so I can screen in my deck.

MR. KANE: The existing deck, does that cover the 40 feet or that deck doesn't meet the requirement as it is?

MR. BABCOCK: It doesn't meet the requirements as it is.

MR. KANE: How long has the deck been in existence?

MR. HERSH: 25 years.

MR. KANE: Any complaints formally or informally?

MR. HERSH: No, not at all, no and what I'm doing I see all around the developments everybody is screening in, you can't even sit out and eat anymore with the bugs. Everybody's screening in their decks and I see it all over the developments, the roofs and I don't think it, I think it actually enhances the development, makes it prettier.

MR. TORLEY: It's not the decking that's causing the problem, it's the fact that your deck as it stands now doesn't meet the code.

MR. KANE: Actually, if you decided not to do it and you went to refinance and sell your house, you'd be

here.

MR. TORLEY: Because the deck protrudes too far against, to the property line, so the fact that you put a roof on brought it to everybody's attention.

MR. TORLEY: Gentlemen, do we have any questions?

MR. MC DONALD: You just need three foot?

MR. HERSH: Yeah.

MR. TORLEY: You're sure of that distance?

MR. HERSH: Yeah.

MR. TORLEY: Because we go by what you tell us and if a surveyor comes out and says we need three foot six inches, a bank may reject and make you start over.

MR. HERSH: I had it surveyed and measured it and everything.

MR. BABCOCK: Yeah, he's got about 37 1/2 feet so we just said 37 feet to make sure.

MR. KANE: Some of the questions may seem a little odd since it's been--you have no water hazards of runoffs?

MR. HERSH: No.

MR. KANE: No cutting down of trees?

MR. HERSH: No.

MR. MC DONALD: Accept a motion?

MR. TORLEY: Yes, sir.

MR. MC DONALD: Motion that we set up a public hearing for Mr. Hersh on his three foot rear yard setback.

MR. RIVERA: Second it.

ROLL CALL

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MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

JOSEPH COMO (#03-32)

MR. TORLEY: Request for 8 ft. rear yard setback: for proposed addition; and 4 ft. side yard setback and 5 ft. rear yard setback for existing shed at 433 Philo Street in an R-4 zone.

Mr. Joseph Como appeared before the board for this proposal.

MR. TORLEY: Sir?

MR. COMO: Hi, basically, we're putting an addition on 15 by 28 feet and on the side of that will be a deck so the 8 feet that we need will be from the edge of the stairs of the deck to the end of the property line and the other part is for an existing shed or that was the flattest location of the yard or least pitch to fill in to make it level so that's why it was over in that area.

MR. KANE: How long has the shed itself been in existence?

MR. COMO: I think it's like two years right now.

MR. KANE: Any complaints formally or informally?

MR. COMO: No.

MR. KANE: Any creating of water hazards or runoffs?

MR. COMO: No.

MR. REIS: Any complaints from your neighbors in any way, shape or form?

MR. COMO: No.

MR. KANE: Moving the deck as you said would create more of a financial hardship, I mean, the shed, sorry?

MR. COMO: Yes, it would be, have to be put in another location.

MR. MC DONALD: Mike, in looking at the picture here, I notice you have something in the back, is that going to take you far enough?

MR. COMO: That's coming out, I just had wood stored there, that was a little roof on top of that, I'm doing away with that.

MR. TORLEY: Ready to move to the addition now?

MR. KANE: Yeah.

MR. REIS: For your proposed addition, doesn't appear that you have to really cut any vegetation down to accomplish this?

MR. COMO: No.

MR. REIS: And you're not going over any easements or anything?

MR. COMO: No, it's all in the back.

MR. KANE: The size of the addition that you're putting on is not going to make the home any bigger than other homes in the neighborhood, won't change the--

MR. COMO: Basically, there's other houses that have that type, I've seen in there, there's one that just put an addition on but this will be a top and bottom.

MR. REIS: You won't be changing the character of the neighborhood?

MR. COMO: No, not really, the existing roof is going to tie right into the old roof.

MR. KANE: And the addition is going to maintain the same gas and electric as the main house?

MR. COMO: Yes, I'm thinking of probably upgrading the electric.

MR. KANE: Both be on the same meter?

MR. COMO: Yes.

MR. TORLEY: If you construct this addition, you will not be altering the drainage patterns of the area?

MR. COMO: No, not at all.

MR. TORLEY: And Mike, whether or not we count the steps as part of this, the rear yard setback, he'd still be here anyway, right?

MR. BABCOCK: That's correct, I think they just gave him a little bit of extra leeway because the addition shows that 34 feet, the stairs show at 32 feet, that would allow him two foot for stairs, which is not enough so they went down to 32, that's the addition, you know, the little 3 x 3 or 4 x 4 entrance deck with stairs we don't count as part of the setback as far as an entry.

MR. TORLEY: And the side yard in the neighborhood is 15 feet, is it not?

MR. BABCOCK: That's correct.

MR. REIS: Accept a motion?

MR. TORLEY: Yes, sir, if there are no other questions.

MR. REIS: I make a motion that we set up Mr. Como for his requested variances for his addition in the rear yard and for the existing deck or existing shed at 43 Philo Street.

MR. KANE: Second the motion.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

PUBLIC HEARINGS:

JEAN LEWIS (#02-24)

MR. TORLEY: Request for 7 ft. required front yard setback and 14 ft. required side yard setback for proposed deck on 15 Shaw Road in an R-1 zone.

Mrs. Jean Lewis appeared before the board for this proposal.

MRS. LEWIS: This is my daughter.

MR. TORLEY: So what's the difficulty?

MRS. LEWIS: Nothing, we're waiting for you to approve it.

MR. TORLEY: Well, no--

MR. KANE: It will be very much like the preliminary meeting, just go through it.

MR. TORLEY: Explain what you want to do.

MRS. LEWIS: We're just going over basically the existing walkway that's in front of the house and on the side a little bit farther about a foot over the cover, it's concrete. Do you have, I think I gave you the pictures?

MS. MASON: Yes.

MRS. LEWIS: And it's going to be probably 16 inches off the ground, 16 inches above and we're not far enough off the property line on that side of the house on the left side.

MR. TORLEY: This is a corner lot?

MRS. LEWIS: No.

MR. KANE: No but the proposed deck that you're putting up is going to be for both entrances, the side entrance to your house and the front entrance?

MRS. LEWIS: Yes.

MR. KANE: Without the deck, do you consider it a safety hazard?

MRS. LEWIS: Yes.

MR. MC DONALD: You have a well, right?

MRS. LEWIS: Yes, in the front and septic is in the back so it doesn't interfere with either one.

MR. RIVERA: So you're not creating any water runoffs or hazards?

MRS. LEWIS: No, not that I know of.

MR. KANE: Mike, the reason for the side yard is she's 13.4 from the corner of the house to the side property if I'm reading that correctly?

MR. BABCOCK: Yeah and she's going out larger, she's making it one foot larger on the side.

MR. KANE: And then this part of New Windsor even without the deck would the 13.4 be okay?

MR. BABCOCK: No, no, well, apparently, the house is pre-existing.

MRS. LEWIS: The house was built in 1960 I believe. I moved into it in '72.

MR. KANE: Thank you.

MRS. LEWIS: I've been in it since '72.

MR. TORLEY: I'll open it up to the public. Does anyone in the audience wish to speak on this matter? Anyone in the audience wish to speak on this? In which case, I'll close the public hearing and ask for the mailings.

MS. MASON: On the second day of June, I mailed out 32

envelopes containing the notice of public hearing and I've had no responses.

MR. TORLEY: Back to your court, gentlemen.

MR. KANE: With the creating of the deck, there's no creation of water runoff hazards or water hazards, no cutting down of any trees?

MRS. LEWIS: No.

MR. KANE: The deck itself won't change the character of the neighborhood in your opinion?

MRS. LEWIS: No.

MR. TORLEY: I see what appears to be power lines, am I looking at that correctly? Maybe it's a lot line change, okay. Again, you'll not be, you asked about the easements, et cetera?

MR. KANE: Yes. No, I didn't ask but this doesn't appear to be any on the survey you're not building over any easements, septic?

MRS. LEWIS: No, the well is way out front and the septic is in the back.

MR. TORLEY: This is a pre-existing, non-conforming lot?

MR. BABCOCK: That's correct.

MR. KANE: Accept a motion?

MR. TORLEY: If there are no other questions, yes.

MR. KANE: I move that we approve the requested variances by Jean Lewis for 15 Shaw Road.

MR. MC DONALD: Second it.

ROLL CALL

MR. REIS

AYE

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MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

WILLIAM & LINDA FARRELL (#03-20)

MR. TORLEY: Request for 2 ft. side yard, proposed pool deck, 5 ft. front yard for above-ground pool located in required front yard, corner lot, existing 6' fence projects between the house and road, corner lot.

Mr. and Mrs. Farrell appeared before the board for this proposal.

MR. FARRELL: We have replaced an existing pool that there was a previous variance on from 1988, the 6 foot fence which surrounds it exists, it's a corner lot, the pool sits directly behind the house whereas at the time the only approved location would have been on what would have been considered the back yard or side yard which would have been both unsafe, very unattractive to the neighborhood. So the pool sits directly behind the house, it's fenced in and we want to attach the deck to the pool.

MR. KANE: Mike, to clarify the two foot side yard they'd be here anyway because in Butterhill it's--

MR. BABCOCK: That's correct.

MR. KANE: And the five foot front yard is because they're on a corner lot and we have two front yards?

MR. BABCOCK: That's correct.

MR. KANE: Six foot fence is because of the two front yards?

MR. BABCOCK: That's correct.

MR. TORLEY: And the fence you feel is important for the safety of the pool?

MR. FARRELL: Absolutely, lot of young kids in the development.

MR. KANE: You will not be creating water hazards or runoffs with the building of the deck and cutting down of trees?

MR. FARRELL: No.

MR. KANE: Not infringing on any easements?

MR. FARRELL: No.

MR. KANE: You have a utility easement on the other side of your property?

MR. FARRELL: Right on the other side, really the side but back side of the property.

MR. KANE: You feel the deck is similar in size and nature to other decks that are in the development of Butterhill?

MR. FARRELL: Yes.

MR. REIS: You're tying in your proposed deck to the existing deck?

MR. FARRELL: That's correct.

MR. TORLEY: And you feel that there's no way to place the pool in some other part of your property where it would not be between your house and Butternut Drive, it would be, there's no other suitable locations?

MR. FARRELL: No, it would be very unsightly and honestly very unsafe it would be sitting out in the middle of the road there.

MR. KANE: As far as the 6 foot fence, you will not be blocking any, creating any hazards for traffic or blocking any view of the streets with the fence?

MR. FARRELL: No, it's considerably off the road.

MR. KRIEGER: And the corner you're on is two active streets, right?

MR. KANE: Oh, yes.

MR. FARRELL: Yes, yeah, the house actually faces

Guernsey Drive even though it has a Buttnerut address, split level house is turned.

MR. REIS: This is going to be consistent with other homes in the area?

MR. FARRELL: Yes.

MR. TORLEY: At this time, I will open it up to the public. Is there anyone in the audience who wishes to speak on this matter? Anyone wishing to speak? So note there are none, close the public and ask for a reading of the notices.

MS. MASON: On the fourth day of June, I mailed out 68 addressed envelopes containing the notice of public hearing and I've had no responses.

MR. TORLEY: Back to the members of the board, do you have any other further questions?

MR. MC DONALD: Are we going to take these separately?

MR. TORLEY: It's your pleasure.

MR. KANE: Altogether, I would think.

MR. MC DONALD: Accept a motion?

MR. TORLEY: Yes.

MR. MC DONALD: I make a motion that we grant the request for the two foot side yard proposed pool deck, the five foot front yard for the above-ground pool that's located in the required front yard and the existing 6 foot fence projects between the house and the road for Mr. and Mrs. Farrell.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

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MR. RIVERA
MR. TORLEY

AYE
AYE

PLYMPTON HOUSE (PETER KRONNER) (#02-59)

MR. TORLEY: Request for use variance for proposed catering use at 10 Plympton Street in a PI zone.

Mr. Charles Brown appeared before the board for this proposal.

MR. KRIEGER: Is there a short form environmental assessment form on file with this?

MS. MASON: Yes, there is.

MR. KRIEGER: For the board, it will be necessary to satisfy the SEQRA requirement that you first vote to limit the SEQRA review to this application only and then assuming that that vote is a positive vote, you have to decide whether to declare a positive or negative dec after you have satisfied yourselves on the environmental review.

MR. TORLEY: Do I hear a motion to that effect?

MR. KANE: So moved, Mr. Chairman.

MR. RIVERA: Second it.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

MR. TORLEY: Do I hear a motion regarding whether there's a positive or negative declaration?

MR. KRIEGER: Why don't you wait until you have the public hearing and vote the negative dec, positive dec or negative dec right before the final vote so that you can gather information if there is any.

MR. TORLEY: You're correct, my apologies. Okay.

MR. BROWN: I'm Charles Brown and I'm representing Peter Kronner who's here tonight who owns a restaurant, he and Peter Bataglia, who owns a restaurant in Cornwall. The proposal is for the Plympton House which is 10 Plympton Street in New Windsor to use it as a catering facility. The permitted zoning right now doesn't allow that. The zoning now is industrial which is manufacturing, storage, similar types of things. Roughly 150 feet away, the zone changes to the NC zone which does permit catering but that doesn't help my client at all. The proposal is to use the existing building to have functions where they'd be bringing in food which is made at either of one or the two restaurants for gatherings and weddings and things of that nature. This building is an existing building, it's had several uses over the years, all of which have failed. My client has talked to the Town officials and purchased the property and got some direction from the planning board, planning board said that they thought this was a good use, they referred us here because it isn't permitted. There will be no changes to the existing structure, most of the parking area's already there either in pavement or gravel area so there will be very minimal environmental impacts and as far as the zoning in the area, majority of the area is between the house, the Plympton House and the Route 9W residences which are not permitted in that zone, down below the Plympton House is American Filter and Fabric. If there's any questions from the board or the public, I'll take those.

MR. REIS: Being that's a change of use, which I personally think is a lesser impact on the community, as a positive situation your hours of operation are typical catering evenings and weekends?

MR. BROWN: Hours of operation you want to answer that, Peter?

MR. BATAGLIA: Seven days a week.

MR. BROWN: We would of course abide by any of the noise ordinances in effect of the Town. It would be intermittent and this is not something that's going to be operating every night, but we also have to go before

the planning board for planning board approval. So at that time, with site plan approval, they would establish hours of operation and if this board felt that they needed to do it now--

MR. TORLEY: I believe this structure had a previous use variance approved for it, did it not, back when it was a funeral home?

MR. REIS: This was an office building.

MR. BROWN: This was never a funeral home.

MR. KRIEGER: It was at one time proposed to be a funeral home but I don't think that application carried through.

MR. BABCOCK: It was set up for a public hearing for the funeral home but I don't see any formal decision. It was also set up for a public hearing for a daycare center, appears to be Little Harvard, and I think there was another daycare, Wind in the Willows was looking at that so it's been, several people have--

MR. KRIEGER: Wasn't there an antique dealer looking at it as well?

MR. BABCOCK: Possibly, I don't know, there's been quite a few.

MR. TORLEY: So it would appear then that the use, the successful use of this building or property for permitted uses in the area has not been exactly fruitful?

MR. BROWN: No, not at all.

MR. KRIEGER: The building is vacant now, right?

MR. BROWN: Right.

MR. KANE: To get to the meat of the matter, unlike area variances, use variances have strict requirements from the state, and I think it would probably be a good idea to address the reasonable return that why it can't

be used for a regular use that that area permits.

MR. BROWN: Again, based upon what just has been brought out here, the public record pretty much supports that, that there's been many uses attempted and none have been successful.

MR. REIS: Your client owns the building at this point?

MR. BROWN: Yes.

MR. TORLEY: There's four criteria we have to meet for a use variance, first off, this property cannot be used for any reasonable return or can't be a reasonable return for any permitted use in the zone. Two, that this is not a self-created hardship, Andy, make sure I do this correctly, the hardship of the property is unique and this will not alter the essential character of the neighborhood, given in that particular area of Walsh Avenue everything in there is unique it seems.

MR. KANE: I agree. And the essential character of the neighborhood is pretty much anything you want I think at this point.

MR. KRIEGER: It's mixed.

MR. KANE: And while I think we can get by, you know, the self-created portion because nobody else has been able to make anything work, I think that we need to at least meet the requirement of what the state says that we need to know in dollars and cents that there has been an attempt to sell this particular property as a return which doesn't make mean make a profit, just get a return for a required use and I think you need to address that in little, a little more depth for us.

MR. TORLEY: I think the fact that our attorney pointed out the fact that the building has been empty, how long has it been empty?

MR. BROWN: A year and a half now, two years.

MR. TORLEY: Sir, how long has the building been empty?

MR. BATAGLIA: I purchased it in August when they had the accounting office in there.

MR. TORLEY: So there's a small accounting office?

MR. BATAGLIA: Correct and she's moved out of there, yeah, she only had one room downstairs.

MR. KANE: So she's unable to rent out the rest of the building or anything along those lines?

MR. BATAGLIA: Yes.

MR. KANE: Do you have any idea how long that kind of condition existed?

MR. BATAGLIA: I think two years she told me.

MR. KANE: Before that, do you know the use of the building?

MR. BATAGLIA: I think it was American Felt and Filter's office building if I'm not mistaken.

MR. BABCOCK: They've been working on this, I can tell you back, I'm going back to 1990, I don't think this building has been occupied fully occupied for a long, long time.

MR. KANE: I agree, I just want to get everything we can get on the record.

MR. BROWN: Again, when we were before the planning board, they pretty much laid that all out so--

MR. KANE: Again, by law, for New York State, we need to get it on the record with the ZBA.

MR. BROWN: I was under the impression that they had forwarded that information to the zoning board.

MR. TORLEY: To summarize the state as we understand the state of the building is essentially underutilized and vacant and has been there for at least 15 years despite numerous other attempts to market it for uses

permitted in the zone?

MR. BROWN: Correct.

MR. TORLEY: And there have been several partial approaches through the zoning board and they failed?

MR. BROWN: Correct.

MR. TORLEY: I'd like to open this up to the members of the public. Is there anyone in the audience who wishes to speak on this, anyone in the audience wishing to speak on this application? Seeing none, I'll close the public hearing section and ask for a reading of the letters.

MS. MASON: On the second day of June, I mailed out 48 addressed envelopes containing the notice of public hearing and I had no responses.

MR. TORLEY: Bring it back to the members of the board, again, I think the record demonstrates that this building has not been able to be marketed for any suitable uses in the, permitted uses in the zone.

MR. REIS: Mr. Chairman, may I expand on that?

MR. TORLEY: Please.

MR. REIS: The prior owners asked us to help them and assist them in getting tenants for the building and we worked with them for several months unsuccessfully, just for the record.

MR. KANE: Your plan is to use the existing building as is?

MR. BROWN: Correct.

MR. KANE: And the existing parking you'll need no variances for the parking as is?

MR. BROWN: No, no variances.

MR. KANE: Signage is the same?

MR. BROWN: Yes, the signage there will be maintained as is as shown on the drawing.

MR. TORLEY: That doesn't mean the sign meets the code.

MR. BROWN: It does, I checked, the sign meets the code.

MR. TORLEY: So, in order for that project to proceed, the only variances requested or required will be the use variance for this intentional use as a catering hall?

MR. BROWN: That's correct.

MR. TORLEY: And you're acknowledging that any such use variance granted would not relieve you from any other requirements of the Town noise ordinances?

MR. BROWN: Understood.

MR. KRIEGER: Same plan reviewed by the planning board?

MR. BROWN: Yes, we have already initiated that application.

MR. KRIEGER: It will have to be completed should the variance be granted here.

MR. RIVERA: What's the occupancy rate?

MR. BROWN: The building maximum will be a hundred.

MR. BATAGLIA: If we're allowed that.

MR. MC DONALD: What do you plan to do with the second floor?

MR. BROWN: Probably put a caretaker as permitted a caretaker facility.

MR. BATAGLIA: Actually, that's part of this process, correct.

MR. BROWN: Well, that's the planning board.

MR. TORLEY: A caretaker, wait a minute, caretaker is permitted in a PI zone?

MR. BABCOCK: It's probably a permitted accessory use but there's some bulk requirements that go with it and I'm not so sure.

MR. BROWN: It's a special use permit permitted accessory use.

MR. TORLEY: Yes, whether the bulk area requirements are also there.

MR. BROWN: Yes, we meet those.

MR. BABCOCK: The funeral parlor that was looking to go in there, one of the variances that they were needing was for the second story caretaker's apartment so there's something that must be--

MR. KRIEGER: How large is this property?

MR. BROWN: 80,000 square feet, 1.84 acres.

MR. TORLEY: You're asking for a use variance to use it for some, to use it for something not permitted in the zone and it's been this board's, I'll check, I don't recall that myself.

MR. KRIEGER: What?

MR. TORLEY: Whether catering is permitted in the NC zone.

MR. BABCOCK: A caretaker's apartment is permitted in any commercial establishment but each--

MR. COMO: Establishment depending on the criteria, like a C Zone you need 20 acres, you've seen those variances come through before and that's what we want to make sure he's got it on his plan, the caretaker's apartment and Mark I would assume--

MR. BROWN: NC zone only needs 10,000 square feet too.

MR. KRIEGER: Why are we talking about an NC zone, this is a PI zone?

MR. TORLEY: But our habit has been in the past when we're considering these other, the other variances that may be required or rules that are needed to be applied to a use variance if you're in a PI zone has a certain number of requirements, if he wants to put something from an NC zone and we have taken what does the NC require and look at the most restrictive.

MR. KANE: Right, that's--

MR. BROWN: But I put NC on the plan.

MR. TORLEY: So for an NC zone for a caretakers does that include--

MR. BROWN: I didn't check the NC zone to see if a caretaker was a permitted.

MR. TORLEY: I don't remember whether the--

MR. BABCOCK: Caretaker's apartment special permit. So do you have the PI zone?

MR. KRIEGER: Yes.

MR. BROWN: I have a copy of it.

MR. TORLEY: The applicant has kindly provided what they'd be for PI and he meets the lot size requirements. The question is whether the NC zone caretaker requirements require a larger lot size but I don't think it would be any larger than 80,000 square feet.

MR. BABCOCK: No, no, in the NC zone, the maximum size is 10,000 square feet.

MR. TORLEY: Just want to be sure.

MR. BROWN: Understood, I appreciate that.

MR. TORLEY: Okay, so--

MR. BABCOCK: So he still has to get a special permit by the planning board.

MR. TORLEY: But he's not running against any area variances.

MR. BABCOCK: Right.

MR. TORLEY: And again, you'll maintain your signage as per the code?

MR. BROWN: Yes.

MR. BABCOCK: Mr. Chairman, I didn't realize the other file was underneath, Myra just pointed that out to me and he's provided a sign, it's three foot ten by five foot eleven which well meets the code.

MR. TORLEY: Gentlemen, any other questions?

MR. KANE: I'm just trying to remember on how to propose the SEQRA in a positive or--

MR. KRIEGER: Propose that the zoning board declare a negative dec.

MR. TORLEY: As reflected only in this part of the application.

MR. KRIEGER: Yes, you have already voted to limit that, limit this, yes.

MR. TORLEY: Do I hear a second?

MR. MC DONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE

MR. TORLEY AYE

MR. TORLEY: We're now back to the merits of the application. Other questions or thoughts on the matter please?

MR. KANE: No further questions.

MR. MC DONALD: Do you want a motion?

MR. TORLEY: Certainly.

MR. MC DONALD: I make a motion that we grant the request for the use variance for the proposed catering use at 10 Plympton Street.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

JESUS & JOSEFA HERNANDEZ (#03-25)

MR. TORLEY: Request for 5.4 ft. required side yard setback for existing deck at 35 Cross Street in an R-4 zone.

MS. HERNANDEZ: We had a small deck off the door in the kitchen and we didn't know that we needed to get a variance first and we built a deck onto the existing deck towards the back out towards the yard.

MR. MC DONALD: Was this a new deck?

MS. HERNANDEZ: No, it's already out, it's already there, we showed the pictures of it already.

MR. RIVERA: Had any problems, any complaints?

MS. HERNANDEZ: No, not at all.

MR. TORLEY: If you were required to remove this deck, exiting the house would become a hazardous venture?

MS. HERNANDEZ: Yes.

MR. KANE: Not creating any water hazards or runoffs with the building of the deck?

MS. HERNANDEZ: No.

MR. KANE: No cutting down of any trees?

MS. HERNANDEZ: No.

MR. KANE: You're not over any easements, water or sewer or otherwise?

MS. HERNANDEZ: No.

MR. TORLEY: You have city water and sewer on this property?

MR. MC DONALD: Yes.

MS. HERNANDEZ: Yes, I do.

MR. REIS: What brings you to the zoning board?

MS. HERNANDEZ: To make it legal.

MR. REIS: Are you trying to sell? Did someone complain about this?

MS. HERNANDEZ: No, there were no complaints.

MR. TORLEY: Just trying to do the right thing. We're glad to see that.

MS. HERNANDEZ: Yes.

MR. TORLEY: Certainly looks nice. At this point, if there are no questions at the moment, I'll open it up to the members of the public. Anyone in the audience who wishes to comment on this application? Anyone wish to comment? Seeing none, I'll close the public hearing and ask for the letters.

MS. MASON: On the second day of June, I mailed out 56 addressed envelopes containing the notice of public hearing. I had no responses.

MR. TORLEY: Is this deck then going to be consistent with other decks in the neighborhood?

MS. HERNANDEZ: Right.

MR. KRIEGER: In appearance?

MS. HERNANDEZ: Right.

MR. TORLEY: So it's not going to alter the essential nature of the neighborhood?

MS. HERNANDEZ: Not at all.

MR. TORLEY: You've had no complaints from the neighbors?

MS. HERNANDEZ: No.

MR. KANE: Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move that we approve the requested variance by Jesus and Josefa Hernandez at 35 Cross Street.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

EUGENE & JACQUELINE SCARANO (#03-25)

MR. TORLEY: Request for 7 ft. maximum building height and 16% developmental coverage for proposed detached garage at 516 Union Avenue in an R-4 zone.

Mr. Eugene Scarano appeared before the board for this proposal.

MR. SCARANO: Two car garage with unfinished storage above.

MR. TORLEY: Replacing the pictured shed?

MR. SCARANO: Yes, taking down the shed.

MR. KANE: Will you be creating water hazards or runoffs with the building of the garage?

MR. SCARANO: No.

MR. KANE: Cutting down of any trees?

MR. SCARANO: No.

MR. KANE: As far as the height of it, is it that much higher than other buildings in your neighborhood?

MR. SCARANO: Garage wise?

MR. KANE: Yes.

MR. SCARANO: Probably.

MR. KANE: The garage?

MR. SCARANO: No.

MR. REIS: Mr. Scarano, can you tell us why you need to go back that far, why you need to have this variance?

MR. SCARANO: I need a certain amount of parking spots for my business so that was basically the last spot.

MR. TORLEY: Now, our code states that a home office

use which you have here for your business may not use an accessory building, you're acknowledging that this garage will not be used for any part of your business?

MR. SCARANO: No personal use.

MR. TORLEY: That also includes, does that include storage of equipment for a home office?

MR. BABCOCK: Probably because he's not going to use it for that.

MR. TORLEY: Strictly for your personal use as storage for your personal use not business and it's a garage?

MR. SCARANO: Yes.

MR. TORLEY: And can you tell us why you couldn't move the garage within the footprint of the permitted area if you moved it a few feet to the east, you would get away from the building?

MR. SCARANO: I would.

MR. TORLEY: Wouldn't change developmental coverage but relieve the building height.

MR. BABCOCK: Well, right, now he wants to be able to drive down the parking lot and drive through the existing parking lot and drive into his garage. If he moves it to the left, he's going to have to blacktop more, he's going to have to change the--

MR. TORLEY: Okay, so if moving the garage to eliminate the building height variance would require additional construction that would increase the developmental area coverage?

MR. KRIEGER: And impervious area.

MR. BABCOCK: That's correct.

MR. TORLEY: So this is a balance in minimizing the two variances?

MR. BABCOCK: That's correct. And the other thing as far as the height he's using the upstairs of the garage as storage, if he doesn't get, if he's not going to ask for a height variance, he's going to have to build his garage bigger in area to accommodate an area for storage which is going to go back to the developmental coverage.

MR. REIS: Which is the maximum developmental coverage in this area.

MR. BABCOCK: He's 20 percent, the maximum is 20 percent, he's at 36 percent so he needs a 16 percent variance.

MR. KANE: And most of that is going to be blacktop.

MR. BABCOCK: It's because of the blacktop parking lot.

MR. REIS: Thank you.

MR. MC DONALD: Is the shed going to be moved?

MR. SCARANO: Shed's going to be taken down.

MR. TORLEY: Now, are there any drainage problems on the property as it now stands?

MR. SCARANO: No.

MR. TORLEY: So will replacing the shed with this larger structure, will that exacerbate any drainage problems?

MR. SCARANO: It shouldn't.

MR. TORLEY: Other properties in this neighborhood, some are, some are not home office occupations?

MR. BABCOCK: Well, the one right next door is, the one right next door is a daycare.

MR. TORLEY: So the addition of this garage will not alter the essential nature of the neighborhood?

MR. SCARANO: I don't believe so.

MR. TORLEY: You're not building over any easements, sewer, water, power, anything like that?

MR. SCARANO: No.

MR. BABCOCK: No.

MR. REIS: Accept a motion?

MR. TORLEY: If there are no other questions. Oh, I lost track, you're right, at this point, we'll open it up to the public. Is there anyone in the audience who wishes to speak to this application? Let the record show there is none. Can we have the letters, please?

MS. MASON: On the fourth day of June, I mailed out 51 envelopes containing the notice of public hearing. I had no responses.

MR. TORLEY: Now I'll close the public hearing and open it back up to the members of the board. Gentlemen, what's your pleasure?

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: I make a motion that we grant the Scaranos their requested variances for their property at 516 Union Avenue.

MR. MC DONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

ROBERT MCKNIGHT (#03-27)

MR. TORLEY: Request for 7 ft. required rear yard setback for proposed rear deck at 51 Birchwood Drive in an R-4 zone.

Mr. Robert McKnight appeared before the board for this proposal.

MR. MCKNIGHT: Again, I'm adding to the extension we had put on last year with a deck and to meet that 40 foot clearance, I need to have that 7 foot variance.

MR. KANE: In the building of the deck, you're not going to create water hazards or runoffs?

MR. MCKNIGHT: No.

MR. KANE: Cutting down any trees?

MR. MCKNIGHT: No.

MR. KANE: Similar size to other decks in the neighborhood so you won't be changing the character of the neighborhood?

MR. MCKNIGHT: No.

MR. TORLEY: As the deck wraps around the house, you'll provide in your opinion a better and safer entrance?

MR. MCKNIGHT: Yes, than what it is now.

MR. KRIEGER: Without the deck, someone exiting the house will be likely to sustain serious injury?

MR. MCKNIGHT: I'm not comfortable doing it.

MR. TORLEY: It's a narrow, steep staircase?

MR. MCKNIGHT: Exactly.

MR. TORLEY: At this point, I'll open it up to the members of the public. Anyone in the audience wishing to speak on this application? Let the record show

there is none. May I have the letters, please?

MS. MASON: On the 10th day of June, I mailed out 69 envelopes containing the notice of public hearing and I've had no responses.

MR. TORLEY: You have spoken I assume with your neighbors about this?

MR. MCKNIGHT: Yes.

MR. TORLEY: And no one is here. You realize that were you granted this variance for the setbacks, this does not relieve you from any other building code requirements?

MR. MCKNIGHT: Yes.

MR. KANE: Accept a motion?

MR. TORLEY: If there are no other questions.

MR. KANE: I move we approve the application by Robert McKnight for his requested variance at 51 Birchwood Drive.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. TORLEY	AYE

M & Y BUILDERS, INC. (#03-29)

MR. TORLEY: Request for 864 square feet variance for maximum livable area at 22 East Green Road in an R-1 zone.

Mr. Abraham Grossman appeared before the board for this proposal.

MR. KANE: Didn't we have a public hearing on this already?

MR. TORLEY: Yes, there was. Mike, do you have anything to inform us on this matter?

MR. BABCOCK: Well, when the gentlemen were in at the preliminary or at the first meeting, they asked for several variances, setbacks, lot widths and so on and so forth. And in the process of getting the variances, they were, there was some discussion with the board about square footage and one of the gentlemen mentioned that the house would be 2,500 square feet. So throughout the process, I mentioned to the board that the plan that was submitted to us was 1,848 square feet so then there was some discussion about 3 bedroom and 4 bedroom soon on and so forth and if it had closets, it's a bedroom, so they worked that all out, we got that worked out so they got their approval. They submitted the plans to the building department. The plans came up with 2,712 square feet. So we told them that we felt that the variance is based on and approved for all the things including the 1,848 square feet. So basically that's why they're back here. And one other thing that I didn't really notice last time was they did get a developmental coverage so if they're increasing the size of the house, anything over 1,848 they're also going to need a developmental coverage variance, an additional one.

MR. TORLEY: Are you increasing, will the footprint of the house--

MR. GROSSMAN: That's not correct. To the board, basically, what happened was at the last meeting, the engineer had placed on the bulk table erroneously he

had placed 1,848 because that was actually the footprint of the house with the garage, complete footprint of the house so he wanted since we were basically going for side variances, back variance and front variances he wanted, he put down 1,848 but I did agree it was actually incorrect because he should of put down the second floor also of the home which makes the home 2,700 square feet. But at the meeting, I have over here at the last previous meeting they asked Mr. Cappello who was my lawyer how many square feet as far as the house is concerned so Mr. Cappello says Mr. Grossman, why don't you come up, this is an officer of the corporation, Mr. Grossman, Mr. Grossman answered approximately 2,500 square feet so I did not have the exact number. I said 1,848 and I knew the house was for 2,500 square feet so I did say the house is approximately 2,500 square feet. There wasn't a question of trying to finagle over here, it was, I did actually say at the meeting that only 1,848 was actually erroneous as far as, cause that was the actual footprint of the house. Now we're not coming over here to change anything of the existing original plan that was submitted. The original plan was submitted, it's still the same plan that's submitted, we were approved for the side setbacks, front setbacks, whatever we were approved for, we're not asking for any additional coverage on the property, only thing we're requesting is the correction of the record that the house was 2,712, it's not a question of asking for any other variances other than that.

MR. TORLEY: Okay, so the house actually must be at least 1,200 square feet to be legal and he's proposing to build 2,700 square feet so it's more than the zoning code requires. The question I have then is are we going because it's going to be a two story, et cetera with the side and rather setbacks, are we going to be getting the building height problem?

MR. BABCOCK: No.

MR. TORLEY: And developmental coverage is the same.

MR. BABCOCK: If that's what he's saying we'll verify that at the time of a survey.

MR. KANE: And we're keeping the same footprint that we had before.

MR. GROSSMAN: There's no change in the footprint of the original plan. The only thing I'm requesting over here is one question was it was brought up at the last meeting which some of the neighbors brought up this issue that the existing septic system which we were planning to reuse was only approved for three bedroom, the original plan that we submitted showed a fourth study which could be, was interpreted that somehow would be able to be used for a four bedroom so--

MR. TORLEY: It can.

MR. GROSSMAN: Right, so the board said which was reasonable that I should somehow move away, restructure it, that there should be no, they should not use it as four bedroom, no chance to use it as a four bedroom but what happened was when we went, my engineer went to work on the, check out the existing septic, he did not like the way it was done and basically we revamped the complete septic system so he went over the existing one and he changed the tank and he completely revamped it and the engineer says absolutely not a problem for the four bedroom. So my request over here is since the only issue was that the existing one was a problem was only approved for three bedroom but I do have here from the engineer--

MR. TORLEY: That's not us, that's the building inspector, we cannot, if the building inspector says the septic system's only good for three bedroom, we cannot vary it.

MR. GROSSMAN: No, he did not.

MR. KANE: But we approved it based on doing three bedroom and that was a condition of our approval. So I think that personally I think I wouldn't change it, you would have to go back in front of a public hearing to change something like that and give up what variances we gave you and gamble that we're going to give it to you again. I don't have a problem with correcting the

square footage because that just seems like a mistake, if we're staying with the footprint, obviously, a building that's 1,800 on a footprint is going to be built with a second story.

MR. TORLEY: Whether it's three or four bedrooms all we're allowed to grant relief from is the area setbacks, et cetera, if the building inspector and health department says that this structure you can't put a septic system, that's it so--

MR. KANE: I agree with that.

MR. TORLEY: My only concern was I see that there's, there was a 22 percent developmental coverage and he's permitted 20, didn't he, did he get a variance on that?

MR. BABCOCK: Yes, he did.

MR. TORLEY: So as long as we're not changing.

MR. BABCOCK: But we went over his engineer's numbers, what he's saying is that his engineer's numbers are wrong, so what's right if it's 1,848 square feet is a mistake then it's also a mistake on the developmental coverage because that's the numbers his engineer made.

MR. TORLEY: Or just the fact that it's a second story.

MR. BABCOCK: No, it's not.

MR. TORLEY: Well--

MR. BABCOCK: Eighteen never came into play except for his plan.

MR. TORLEY: That was the first floor and the garage.

MR. GROSSMAN: That's correct.

MR. BABCOCK: Well--

MR. TORLEY: So the engineer was showing the footprint.

MR. BABCOCK: Yes, that kind of works out.

MR. KANE: Those numbers add up that way.

MR. BABCOCK: Yes, it does.

MR. TORLEY: So the engineer is just describing the square footage of the footprint of the building.

MR. BABCOCK: That's correct.

MR. TORLEY: If we're not changing the footprint of the building but adding another story, does that change it, doesn't change developmental coverage?

MR. BABCOCK: No, it doesn't.

MR. TORLEY: And he's far enough off the side yards that he's not getting into building height requirements?

MR. BABCOCK: That's correct.

MR. KANE: I don't have a problem with the number because we're staying with the same footprint but I still say during our meeting we were adamant that we stay with the three bedroom instead of a fourth bedroom.

MR. MC DONALD: And that was a public hearing to my opinion, I'm not that well versed, but I think that we'd have to do that by public hearing to change it.

MR. KRIEGER: If you're going to change that, you'll make that a condition of the granting of the variance and to remove that condition has to be by public hearing. Now, the question with respect to the numbers is since it appears that the 1,800 number represented the size of the footprint and I think that was the intention of the board at the time, whether it is in fact now 2,700 feet really doesn't matter for the purpose of developmental coverage. If that was the, if the board decides at this point that that was his intent in enacting that in looking at that originally then there would be no need for a--

MR. KANE: If my memory serves me correct, that was the intent of the board keeping the footprint with the garage, what we talked about the 18 and the second story three bedroom.

MR. MC DONALD: That's it, that's the way I voted anyway.

MR. KANE: I agree.

MR. TORLEY: That was the meeting I was not present at, I don't think I was here for that one.

MR. KANE: That was our intent.

MR. TORLEY: Well, if the intent was expressed at the meeting, the expectation was three bedroom, then I think to make the changes would require a public hearing.

MR. KRIEGER: To make a change from the number of bedrooms would require a public hearing. Merely to correct the square footage in view of the fact that the footprint stays as it was originally.

MR. TORLEY: No because if we're going to a two story building out there.

MR. KANE: No, it was always two story.

MR. KRIEGER: It always was a two story building.

MR. REIS: It was just I believe the whole thing was the calculation of the numbers was in error, however that happened, it doesn't really matter, it was an error, now he wants to correct it.

MR. KANE: We saw the plans, it was a two story building we were talking about but we were very adamant with keeping the footprint of the building that's existing and not going over the footprint. We did have a second story and we cut the fourth bedroom out and made it adamant about making it a three bedroom only.

MR. TORLEY: In that case, you have to go to public

hearing to change it.

MR. KRIEGER: If you're going to change the number of bedrooms, yes.

MR. KANE: So that goes to the applicant then what he wants to do, I mean, he can accept our judgment and build it right there with a three bedroom at the 2,700 odd square feet or reapply and try to add another, change the variance that we gave him to go to a fourth bedroom.

MR. BABCOCK: In the minutes if you read the minutes as discussed Mr. McDonald discusses that there's a possibility that the fourth room could be turned into a bedroom and the applicant, Mr. Grossman?

MR. GROSSMAN: That's correct.

MR. BABCOCK: Said that it's only going to be three bedrooms and a study, it will not be changed into a bedroom, we'll remove the--there's no room for a study downstairs, basically that's what they're saying.

MR. KANE: We were adamant.

MR. REIS: I think part of the decision making process was because of the limitations of the existing septic and now that--

MR. TORLEY: That's the kind of thing that would have to be brought up at the public hearing since this is, you've changed the septic system.

MR. REIS: Now that he has the ability to create a fourth bedroom situation.

MR. TORLEY: And if he could demonstrate the septic could support it.

MR. MC DONALD: Then that would be something else that we'd be able to take into consideration. But at the time when we brought it up, the septic system, we were under the impression would not handle the four bedrooms.

MR. KANE: Therefore, we were adamant about the three bedrooms, so your options are this, as far as I see it, if I can speak for you.

MR. TORLEY: Please.

MR. KANE: You can accept our judgment that there was an error with the square footage, proceed with the square footage as is on the plan with the variances that we gave you as a three bedroom home or reapply for a new variance to add a fourth bedroom because you have new information on the septic and have a re-vote on that, whether it be positive or negative.

MR. GROSSMAN: Okay, so my question here is this, if what happened was if the original zoning meeting I had gone, I did not realize that there was an error with the 1,848, I had went back to my architect and said, you know what, I want you to modify it and take away the room over there and want to you modify it upstairs, that it should only be a three bedroom and he did that so you have, he re-made the plan for me, then I resubmitted it but then the problem came up with the square footage, this is the plan I have in front of me that was modified as a three bedroom, my question is this, this would be okay, I will just proceed with this, I'm not going to go any further.

MR. KANE: Honestly, if you're asking for an opinion, you know, it's up to the building department. So if you're staying within the same footprint and the building department then can approve that with the same footprint, Mike, on the 2,700 square foot.

MR. BABCOCK: Yes.

MR. KANE: Then we'll correct the number, for the record, the number will be corrected and as per Mike and whatever other provisions he's had.

MR. GROSSMAN: Number as far as what?

MR. BABCOCK: The square footage number.

MR. GROSSMAN: At that meeting--

MR. TORLEY: But, sir, so as I understand you, you're going to build this as a three bedroom house?

MR. GROSSMAN: That's correct.

MR. KANE: On the existing footprint?

MR. TORLEY: You're now speaking for the record that this is a three bedroom house?

MR. GROSSMAN: That's correct.

MR. TORLEY: If we see it marketed as a four bedroom house, you're in trouble.

MR. GROSSMAN: That's no problem.

MR. KANE: So you need to, so Mike understands where we stand as far as what we want for square footage, you would resubmit your plans to the building department and he will approve or deny that. We're going to correct our square footage.

MR. GROSSMAN: Well, the square footage will stay at 27.

MR. BABCOCK: 2,712, yes.

MR. KANE: The actual numbers you'll have to verify with Mike but our intent was the same footprint two story house, three bedroom.

MR. GROSSMAN: Okay.

MR. TORLEY: That's what you're stipulating for the record that it's a three bedroom.

MR. GROSSMAN: That's correct.

MR. RIVERA: Will that need a public hearing?

MR. TORLEY: I don't think so.

MR. KANE: Clerical error, basically.

MR. KRIEGER: This is basically the same application that was made before.

MR. TORLEY: Just making technical fixes.

MR. KANE: Just for the record to change the number, the intent was always there.

MR. REIS: Mr. Grossman, are you comfortable with the, are you all set?

MR. GROSSMAN: Yes.

MR. KANE: Thank you.

DISCUSSION

MR. TORLEY: This is my last meeting and I just wanted to put on the record that it's been a real pleasure and honor to serve with everyone on this board for all these years and it's something I will remember with great fondness and regret that I am leaving. But I'm sure that my recommendation is that Mike Kane take over as Chairman and I'm going to be handing him this gavel which we never used.

MR. KANE: I want to say that, put it on the record that it's been great working with you. I think it's tremendous the time and effort that you have basically donated to the Town of New Windsor for the last 10, 15 years you've been doing this.

MR. TORLEY: I think I've been on the board since '89.

MR. KANE: Then you've been on too long.

MR. TORLEY: I tried to quit last time.

MR. KANE: I remember. And I just really want to thank you for your service to the Town.

MR. TORLEY: Thank you all very much, best wishes to everybody.

MR. KANE: I vote we adjourn.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. RIVERA	AYE

June 23, 2003

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MR. TORLEY

AYE

Respectfully Submitted By:

A handwritten signature in cursive script, appearing to read "Frances Roth".

Frances Roth
Stenographer

7/9/03